

TOWN OF NORTH READING, MASSACHUSETTS
STORMWATER MANAGEMENT RULES & REGULATIONS

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**STORM WATER MANAGEMENT
RULES AND REGULATIONS**



MAY 2010

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TOWN of NORTH READING

Massachusetts

Town Clerk's Office

Barbara Stats, MMC/CMMC
Town Clerk

This is to certify the following vote of the Board of Selectmen from the minutes of their meeting on June 21, 2010:

9. STORMWATER REGULATIONS

DPW Director, Richard Carnevale, was present to explain revisions made to the Town of North Reading Storm Water Management Rules and Regulations for adoption by the BOS.

The Board was given the opportunity to ask questions and Mr. Carnevale answered them.

MR. CHAIRMAN, I MOVE TO ADOPT THE TOWN OF NORTH READING STORM WATER MANAGEMENT RULES AND REGULATIONS DATED MAY 2010 AS RECOMMENDED BY THE DPW DIRECTOR.

MOTION BY: MR. PRISCO
SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

A True Record.
ATTEST:


Barbara Stats, Town Clerk

Dated: August 13, 2010

[Town Seal]

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STORMWATER MANAGEMENT RULES & REGULATIONS

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1. PURPOSE

The purpose of these Stormwater Management Rules and Regulations (the “Regulations”) is to aid in the consistent and effective implementation of Chapter 156 of the Town General Bylaws, Article II, §§156-14 through 156-23, “Construction and Post Construction Storm Water Management of New Developments and Redevelopments” (the “Bylaw”-See Appendix F). These Regulations establish requirements and procedures for the submission and consideration of an application for a Stormwater Management Permit and related documents, application and review fees, inspection requirements, definitions, and design standards to control the adverse effects of increased stormwater runoff, decreased groundwater recharge, and non-point source pollution associated with new development and redevelopment. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

- impairment of water quality and decreased flow in lakes, ponds, streams, rivers, coastal waters, wetlands and groundwater;
- contamination of drinking water supplies;
- erosion of stream channels;
- alteration or destruction of aquatic and wildlife habitat;
- flooding; and
- overloading or clogging of municipal catch basins and storm drainage systems.

2. AUTHORITY & APPLICABILITY

A. Authority.

(1) The Regulations are promulgated by the Town of North Reading Building Inspector, under the authority of the Bylaw, §156-18B.

(2) The Regulations are intended to clarify but not expand, extend, modify or replace any provision of the Bylaw.

B. Applicability

The Regulations apply to any construction activity that requires a Stormwater Management Permit, pursuant to §156-17A of the Bylaw, and is not exempted by §156-17B.

C. Definitions.

In addition to the definitions set forth in §156-15 of the Bylaw, the definitions in Appendix A to the Regulations shall apply in the interpretation and enforcement of the Regulations.

3. ADMINISTRATION

A. Enforcement Officer. The Building Inspector, who is designated by §156-15 of the Bylaw as the Enforcement Officer for the Bylaw, shall administer, implement, and enforce the Regulations. As authorized by §156-18A, any powers granted to or duties imposed upon the Building Inspector may be delegated in writing by the Building Inspector to other Town departments, employees, or agents.

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B. **Waivers.** The Building Inspector may waive strict compliance with any requirement of the Bylaw or the Regulations for the reasons given, and in accordance with the procedures set forth, in §156-21 of the Bylaw.

C. **Severability.** If any provision of the Regulations shall be held invalid for any reason, all other provisions shall continue in full force and effect.

4. STORM WATER MANAGEMENT PERMIT

A. **General.**

(1) **Timing of Application.** A Storm Water Management Permit (“Permit”) must be obtained prior to the commencement of any activity for which a Permit is required. It is recommended that the Permit application be submitted at least ninety (90) days before any such activity, to allow sufficient time for the application to be reviewed by the Building Inspector and relevant Town Departments.

(2) **Owner Responsibility.** While application may be made by a representative, the permittee must be the Owner of the site. If the applicant has less than a fee interest in all parcels on which work will occur, the applicant shall provide written consent from the fee owner of each affected parcel, or evidence of an interest in the parcels sufficient to establish the applicant’s right to conduct the work. It is the site Owner or his/her agent’s responsibility to determine if other Town, State, and Federal permits or applications are required and to secure them.

(3) **Public Hearings.** The Permit application may be considered by the Building Inspector through an administrative process, without conducting a public hearing. However, a public hearing may be required at the discretion of the Building Inspector, based on the complexity of the proposed activity, the extent of land disturbance, and/or the likelihood of significant public interest in the Permit application. If a public hearing is required, it shall be scheduled to be held at least thirty (30) but not more than forty-five (45) days after the date on which the Permit application is received by the Building Inspector.

(4) **Burden Of Proof.** It is the applicant's responsibility to be aware of and meet the requirements of the Bylaw and the Regulations. The applicant has the burden of proving that the project or activity will comply with the Bylaw and the Regulations.

B. **Pre-Application Meeting.** Applicants are strongly encouraged to schedule a pre-application meeting with the Building Inspector at the earliest feasible time for the following purposes:

(1) Discuss the proposed development plans and requirements for a Permit and the anticipated fees.

(2) Advise the designer and/or applicant of the Town’s design standards (See Appendix B), goals with respect to stormwater management at the site, and to the extent practical, of any known concerns or issues regarding stormwater management at the subject site.

(3) Advise the designer and/or applicant of application submittal requirements or of additional information needed in the application at the time of filing.

(4) Encourage the use of Low Impact Development (LID) techniques in site design. A pre-application meeting can be useful in the process of LID design by creating a working dialogue and understanding regarding the goals of the stormwater design. Unlike conventional development and stormwater

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controls, an LID approach to design begins with an assessment of environmental and hydrologic conditions at the site and how to best address these conditions. Preliminary planning for the site is as critical as the ultimate stormwater controls chosen. A pre-application meeting may be helpful to avoid unnecessary stormwater management activity and may possibly help to eliminate the need for filing an application altogether. The assistance of Town staff during any pre-application meeting is intended to be advisory in nature and in no way changes the applicant's sole responsibility for the successful design of stormwater management systems for the site. Applicants are reminded that the objectives of the LID approach are to:

- (a) Develop a site plan that reflects natural hydrology,
- (b) Minimize impervious surfaces,
- (c) Treat stormwater in numerous small, decentralized structures,
- (d) Use natural topography for drainage ways and storage areas,
- (e) Preserve portions of the site in undisturbed, natural conditions, and
- (f) Lengthen travel paths to increase time of concentration and attenuate peak rates.

C. Application.

A Permit application package shall include the following submittals:

- (1) Proposed Notice to Abutters and List of Abutters (see Section 4-D);
- (2) Storm Water Management Plan;
- (3) Erosion and Sediment Control Plan;
- (4) Operation and Maintenance Plan;
- (5) Records of stormwater easements;
- (6) Plans showing the building envelope within each house lot and proposed grading, drainage, and stormwater disposal for each lot; and
- (7) Application Fee.*

Five (5) hardcopies and one (1) digital copy (CAD & PDF) of the Storm Water Permit application package must be filed with the Building Inspector for his/ her review as well as review by other Town Departments, Boards or Commissions.

* The application will not be accepted without the Application Fee. The Application Fee for the Permit shall be in addition to any fee requirements for other applications for permits for the same project before any other Town Board or Commission which may review the project.

D. Notice to Abutters and Public Hearings.

(1) Upon receipt of the Permit application, the Building Inspector shall review the application and inform the applicant, within seven days, whether a public hearing will be required, and if so, the date, time, and place of the public hearing.

(2) The applicant shall provide notification of the Permit application to all abutters (as identified in Section 4-D(4)) within seven days after the Building Inspector determines whether a public hearing is required. The applicant shall provide notification at the mailing addresses shown on the most recent

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applicable tax list from the municipal assessor. Notification shall be at the applicant's expense. The notification shall state that the application is being made pursuant to the Bylaw, shall briefly describe the proposed project, and state where copies of the application may be examined or obtained. If a public hearing is to be held, the notification shall also state the date, time, and place of the public hearing, and shall be mailed at least seven days prior to the public hearing. Failure to give timely notice of the public hearing shall be grounds to continue the hearing.

(3) The applicant shall notify abutters by either certified mail, return receipt requested, or by certificates of mailing. The applicant must present either the certified mail receipts or certificates of mailing for all abutters to the Building Inspector before a decision on the application can be made. If a public hearing is to be held, the certified mail receipts or certificates of mailing shall be presented to the Building Inspector before or at the beginning of the public hearing. The presentation of the receipts for all abutters identified on the tax list shall constitute compliance with abutter notification requirements.

(4) **Abutters** include owners of property directly adjacent to the property where the activity is proposed and owners of property within one hundred (100) feet of the subject property, including property separated from the subject property by a public or private street or a body of water. Abutters shall also include, for any project involving a water body, any property owner whose property abuts that water body and is within three hundred (300) feet of the subject property, measured from the low-water line both across the water body and along the same shoreline of the water body as is the subject property. If an **abutting property is in common ownership**, same-family ownership, or in ownership by different entities with common principals, with the subject property, then abutters shall also include the owner of the nearest property to the subject property that is not owned by the applicant, a same-family owner or the same principal owner.

(5) If a public hearing is to be held, the Building Inspector shall publish a notice of the public hearing in the North Reading Transcript, or another newspaper of general circulation, at least seven days before the hearing. The cost shall be borne by the applicant. The Building Inspector shall cause a notice of the public hearing to be posted in Town Hall at least seven days before the hearing.

(6) Hearings may be continued by the Building Inspector, with the consent of the applicant, to a specified date and time, which shall be announced at the hearing that is to be continued. If a continuance is granted due to amendments to the project proposal, revised submittals shall be supplied to the Building Inspector seven (7) days prior to the next scheduled hearing.

E. Stormwater Management Plan: The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater, in order for the Building Inspector to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. Specific requirements for the content of the Stormwater Management Plan are listed in Appendix C.

F. Erosion and Sediment Control Plan: The Erosion and Sediment Control Plan shall contain sufficient information to describe the proposed erosion and sedimentation controls and Stormwater Pollution Prevention Plan that are needed during land disturbance and construction, including source

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control and pollution prevention measures, best management practices (“BMPs”) to address erosion and sedimentation, stabilization measures, and procedures for operating and maintaining the BMPs, especially in response to wet weather events and frost. The plan shall include a schedule for sequencing construction and stormwater management activities that minimizes land disturbance by ensuring that vegetation is preserved to the maximum extent practicable, and that disturbed portions of the site are stabilized as quickly as possible. Specific requirements for the content of the Erosion and Sediment Control Plan are listed in Appendix D.

G. Operation and Maintenance Plan: An Operation and Maintenance Plan (“O & M Plan”) for the permanent stormwater management system is required at the time of application for all projects requiring a Permit. The O & M Plan shall be designed to ensure compliance with the Bylaw and to ensure that the Massachusetts Surface Water Quality Standards, as contained in 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Building Inspector shall make the final decision of what maintenance option is appropriate in a given situation. The Building Inspector shall consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O & M Plan, as approved by the Building Inspector, shall be recorded at the Middlesex County Registry of Deeds by the permittee prior to the commencement of any work, and shall constitute a continuing requirement. A copy shall remain on file with the Building Inspector. Stormwater management easements shall be provided by the property owner(s) and shall be sufficient in location and extent to carry out the required maintenance. Specific requirements for the content of the O & M Plan are listed in Appendix E.

H. Entry: To the extent permitted by state law, filing an application for a Permit grants the Building Inspector permission to enter the subject site to verify the information contained in the application, and to inspect, survey, or sample to determine compliance with the Permit.

5. FEES

The following fees shall be charged for an application for a Permit:

A. Application Fee

- (1) An Application Fee of \$500 is payable at the time of application. It is nonrefundable.
- (2) The purpose of the Application Fee is to offset the Town’s costs for the processing of the application by the Building Inspector and other Town officials and boards.
- (3) The Application Fee is in addition to any other local or state fees that may be charged under any other law or bylaw.

B. Review Fee

- (1) A Review Fee may be charged to cover outside professional consultant review services for the project, if the Building Inspector, after consultation with the Town Engineer, determines that such services are necessary due to the scope and complexity of the project. The consultant services may include, but are not limited to, review by engineers, hydrologists, attorneys, or other professionals for hydrologic and drainage analysis, stormwater quality analysis, site inspections, as-built plan review, and analysis of legal issues.

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(2) The applicant will be provided an estimate of the Review Fee as determined by the Building Inspector and the Town Engineer. This estimated fee must be paid to the Town prior to the start of the review process, unless the Building Inspector approves other arrangements for the applicant to pay consultants directly when services are provided.

C. Inspection Fees.

(1) An Inspection Fee of \$ 50 shall be paid by the applicant for each site inspection conducted by Town personnel during the project, as provided in Section 8 of these Regulations. The cost of any inspection conducted by a professional consultant shall be paid for as provided in Section 5-B.

6. PROCEDURES

A. **Determination of Completeness.** The Building Inspector shall make a determination as to the completeness of the application and adequacy of the materials submitted within seven (7) days of receipt, and shall inform the applicant of any deficiencies. No review shall take place until the application has been found to be complete.

B. **Review Period.** When possible, the Building Inspector shall complete the review of the application and issue a decision within 90 days after the application is deemed to be complete. However, the Building Inspector may extend this period when necessary, due to the complexity of the project, the continuance of hearings, or the need to request supplemental or updated project information from the applicant.

C. **Other Boards.** The Building Inspector shall notify the Department of Public Works, Community Planning Commission, Conservation Commission, and Board of Health of receipt of the application, and shall keep four copies of the application package on file for the applicable Town boards to review.

D. **Information Requests.** During review of the application, the Building Inspector may request such additional information from the applicant as may be necessary to determine whether the proposed activity meets the requirements of the Bylaw and the Regulations. A failure to submit sufficient information shall be grounds for the Building Inspector to disapprove the Permit application.

E. **Actions.** Upon completion of the project review, the Building Inspector shall issue a written decision, which shall consist of either:

(1) **Approval.** Approval of the Permit application, based upon a determination that the proposed Storm Water Management Plan, Erosion and Sediment Control Plan, and O & M Plan meet the requirements and standards in Sections 4 - C, D, and E and comply with any other requirements set forth in the Bylaw and the Regulations.

(2) **Approval with Conditions.** Approval of the Permit application, subject to any conditions, modifications, or restrictions required by the Building Inspector which will ensure that the project meets the requirements and standards in Sections 4 - C, D, and E and complies with any other requirements set forth in the Bylaw and the Regulations.

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(3) **Disapproval.** Disapproval of the Permit application, based upon a determination that the proposed Storm Water Management Plan, Erosion and Sediment Control Plan, and O & M Plan, as submitted, do not meet the requirements and standards in Sections 4 - C, D, and E or do not comply with any other requirements set forth in the Bylaw and the Regulations.

F. **Project Changes.** The permittee, or its agent, must notify the Building Inspector in writing of any change or alteration in the stormwater management systems authorized in a Permit before the change or alteration occurs. If the Building Inspector determines that the change or alteration is significant, based on the Bylaw or the stormwater management and design standards listed in the Regulations, the Building Inspector may require that an amended application be filed. If any change or alteration of the requirements of the Permit occurs during regulated activities, including significant changes in schedule, the Building Inspector may require the installation of interim erosion and sedimentation control measures before considering whether to allow such change or alteration.

G. **Project Completion.** At completion of the project the permittee shall submit a Final Report, with plans and other documentation, as detailed in Section 9 of the Regulations.

H. **Permit Expiration.** A Permit shall expire three (3) years from the date of issuance. Any permit may be renewed at the Building Inspector's discretion for an additional one-year period, provided that a request for renewal is submitted in writing to the Building Inspector at least thirty (30) days prior to expiration.

I. **Engineer of Record.** The Applicant shall notify the Building Inspector, in writing, of any change in the Engineer of Record.

7. PERFORMANCE GUARANTEES

Projects subject to the Bylaw that have received subdivision approval from the Planning Board shall provide security to the Planning Board for the completion of stormwater control measures by one of the means, and in accordance with the procedures, specified in MGL c. 41, §81U. For other projects subject to the Bylaw, the Building Inspector may, at his discretion, require that a performance bond be posted prior to the start of land disturbance activity. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Building Inspector to ensure that the work will be completed in accordance with the Permit. If the project is phased, the Building Inspector may release part of the bond as each phase is completed in compliance with the Permit, but the bond may not be fully released until the Building Inspector has received the Final Report as required by Section 9 of the Regulations and has issued a Certificate of Completion (see Section 10).

8. INSPECTION AND SITE SUPERVISION

A. **Pre-construction Meeting.** Prior to starting clearing, excavation, construction, or land disturbance, the Applicant, the Applicant's Technical Representative, the general contractor and any other person with authority to make changes to the project, shall meet with the Building Inspector, to review the permitted plans and their implementation. At least two (2) copies of the Storm Water Management Permit and associated plans shall be kept on the project site during the progress of the work. A copy of

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the NPDES Construction General Permit and Stormwater Pollution Prevention Plan (if applicable) shall be kept at the site as well.

B. Inspections. The Building Inspector or a designated agent, which may be either Town personnel or a professional consultant, shall make inspections as listed below, and shall either approve that portion of the work completed or shall notify the permittee of any noncompliance with Permit requirements. In order to obtain inspections, the permittee shall notify the Building Inspector at least two business days prior to the requested inspection. Inspections shall occur at the following stages:

- (a) Erosion and sediment control measures are in place and stabilized;
- (b) Site Clearing has been substantially completed;
- (c) Rough Grading has been substantially completed;
- (d) Final Grading has been substantially completed;
- (e) Close of the Construction Season; and
- (f) Final Landscaping (permanent stabilization) and project final completion.

An additional inspection shall be required prior to backfilling of any underground drainage or storm water conveyance structures.

C. Permittee Inspections. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the Permit, and prior to and following storm events with an anticipated rainfall of greater than or equal to 1 inch per 24 hours. The purpose of such inspections will be to determine the overall effectiveness of the required plans and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Building Inspector or designated agent in a format approved by the Building Inspector.

E. Final Inspection.

(1) After the storm water management system has been constructed, the permittee or Technical Representative shall request a final inspection site meeting with the Building Inspector. The Building Inspector (or a designated agent) shall visit the site with the Technical Representative to confirm the site's "as-built" features.

(2) This inspection shall also evaluate the effectiveness of the system in an actual storm. The inspection shall determine whether the stormwater BMPs are operating as designed. In conducting the inspection, the inspector shall look for any physical evidence that the stormwater BMPs are not functioning as designed, such as sand plumes at outfalls, excessive sands in catch basins, oil sheens, stressed vegetation, accumulated litter, and/or failure of the BMP to drain after 72 hours. If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Storm Water Management Plan, the deficiencies shall be addressed and corrected by the permittee before any performance guarantee is released and a Certificate of Completion is issued.

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9. FINAL REPORT

Upon completion of the stormwater management system, and following the Final Inspection, the permittee shall submit a Final Report from a registered Professional Engineer certifying that all stormwater control devices have been completed in accordance with the conditions of the approved Permit, subject to any approved changes and modifications. Any discrepancies must be noted in the cover letter. As part of the Final Report, the permittee shall also include the following:

A. Certified as-built construction plans. The as-built / record plans shall be drawn to scale and identify the location of any systems for conveying stormwater on the site. The as-built / record plans shall identify the location of any systems for conveying wastewater on the site and show that there are no connections between the stormwater and wastewater management systems.

B. An Illicit Discharge Compliance Statement. An Illicit Discharge Compliance Statement shall be submitted to verify that no illicit discharges exist on the site. For redevelopment projects, the Illicit Discharge Compliance Statement shall also document all actions taken to identify and remove illicit discharges, including, without limitation, visual screening, dye or smoke testing, and the removal of any sources of illicit discharges to the stormwater management system.

C. An Operation and Maintenance (O & M) Compliance Statement. The O & M Compliance Statement shall identify the party responsible for implementation of the O & M Plan and state:

- (1) the site has been inspected for erosion and appropriate steps have been taken to permanently stabilize any eroded areas;
- (2) all aspects of the stormwater BMPs have been inspected for damage, wear and malfunction, and appropriate steps have been taken to repair or replace the system or portions of the system so that the stormwater at the site may be managed in accordance with the Bylaw, the Regulations, and the Design Standards incorporated by reference,
- (3) future responsible parties have been notified of their continuing legal responsibility to operate and maintain the structure; and
- (4) the O& M Plan for the stormwater BMPs is being implemented.

D. US EPA General Permit Notice of Termination. A copy of the Construction General Permit Notice of Termination (NOT) (required by the EPA within 30 days after land disturbance has ceased and the site is stabilized; with seventy percent (70%) permanent vegetation coverage or 70% permanent erosion and sediment controls installed) shall be submitted with the Final Report. The Town will check EPA's website for verification that the NOT was submitted.

E. Stormwater System Effectiveness Statement. The permittee's Technical Representative shall evaluate the effectiveness of the stormwater best management practices (BMPs) during an actual storm and document the findings. The Final Report shall also include certification from the Applicant's Technical Representative as to the effectiveness of the installed system during storm events.

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10. CERTIFICATE OF COMPLETION

Upon receipt and approval of the Final Report and accompanying documents, and upon determining that all work under the Permit has been satisfactorily completed in conformance with the Bylaw and the Regulations, the Building Inspector will issue a letter to the applicant, certifying completion of the work.

11. CONTINUING REQUIREMENTS

A. Adherence to the provisions of the approved O & M Plan is a continuing requirement of the Permit. Failure to adhere to these provisions will constitute a violation of the Bylaw and the Regulations, and be subject to enforcement action.

B. A request to modify the requirements of the O & M Plan shall be submitted to the Building Inspector, who may approve the requested modification if it is determined to be an insignificant change. If the Building Inspector determines that the requested modification is significant, he may require that the permittee submit a request to amend the Permit, which shall be subject to the formal review procedures set forth in these Regulations.

C The person(s) responsible for the operation and maintenance of a stormwater management facility shall make and keep a record of all operation and maintenance activities showing compliance with the O & M Plan, and shall retain such record for at least three (3) years. Such record shall be provided to the Building Inspector, upon request, and made available to the Town during inspection of the facility and at other reasonable times.

12. ENFORCEMENT

The Building Inspector or an authorized agent of the Building Inspector shall enforce the Regulations, the Bylaw, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. The provisions for enforcement are detailed in Chapter 156, Storm Water Management Bylaw of the Town's General Bylaws, § 156-22.